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SUMMARY RECORD OF THE 1081st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 19 July 1991, at 10 a.m.

Chairman: Mr. POCAR

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of Iraq (continued) (CCPR/C/64/Add.6)

1. The CHAIRMAN invited the delegation of Iraq to reply to the questions asked and observations made by members of the Committee at the previous meeting after hearing the replies to the written questions in section I of the list of issues to be taken up in connection with the consideration of the third periodic report of Iraq.

2. Section I read:

"I. Right to life (article 6)

(a) Please comment on the effect of the events since 2 August 1990 on the discharge by Iraq of its international obligations under the Covenant, in particular of its obligations to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized therein.

(b) Is the Decree of the Revolutionary Command Council No. 840 of 1986, prescribing severe penalties for offences against the President, still in force?

(c) How often and for what offences has the death penalty been imposed since the consideration of the second periodic report of Iraq? How often has the death penalty been carried out?

(d) With reference to paragraph 29 of the report, please provide information on legal remedies available to persons sentenced to death.

(e) (i) Have there been any violations of the rules and regulations governing the use of firearms by the police and security forces and, if so, what measures have been taken to prevent their recurrence?

(ii) What disciplinary and other measures have been taken against those found guilty?

(f) Have any investigations been actually carried out in respect of alleged disappearances of individuals and killings of persons in the course of military operations by the Iraqi armed forces and, if so, with what results?

(g) Please provide details about the redress being made available in respect of casualties and disappearances in Kuwait following the events of 2 August 1990. Please provide details about the redress being made available for damage to the right of life resulting from the deliberate setting on fire of oil wells."

3. Mr. MAHMOOD (Iraq) said that his delegation was willing to engage in a positive dialogue with the Committee in order to benefit from its members' experience in the field of human rights, thus enabling Iraq to implement the Covenant in an exemplary manner. His delegation regretted, however, that certain observations by members of the Committee had been somewhat too emotional and passionate in tone, and that in some cases they had been the result of prejudice or unconfirmed rumour. As his delegation saw it, the aim was not to trade accusations but to conduct a serious dialogue with eminent experts.

4. Grouping the questions and observations according to topic, he referred first of all to observations to the effect that the report had been drawn up while the Iraqi authorities had still been in the throes of the recent events, which was quite correct. Iraq had in fact undertaken to implement the Committee's decision of 11 April 1991, which had been directed at Iraq to the exclusion of any other country, and had requested it to submit its report on the implementation of articles 6, 7, 9 and 27 of the Covenant, taking into account the consequences of the recent events (CCPR/C/64/Add.6, para. 1). From that the authorities had concluded that the Committee wished to learn about the events in question, and they had spared no effort to provide information on that period, while likewise outlining legislative and administrative developments during the entire period covered by the report, namely, from 1986 to 1991.

5. Secondly, observations had been made about the legal interpretation the Iraqi delegation had put on the Committee's competence with regard to questions relating to the crisis in Kuwait - questions which had been the subject of detailed Security Council resolutions, namely, resolutions 660 (1990), 674 (1990) and 687 (1991). While respecting the Committee's interpretation of its own competence, his delegation, on the basis of its own interpretation, had been unable to transmit the information requested in connection with the Kuwait crisis since that information was in the hands of the Iraqi Ministry of Foreign Affairs, the United Nations Security Council and the International Committee of the Red Cross. Reference might be made to Security Council documents for the relevant information.

6. Questions had been asked about capital punishment, and more specifically whether new offences carried that penalty in Iraq. The answer was no: there had been no change since the second periodic report. With regard to alleged summary executions, inter alia of Kurdish children, and other statements about summary trials leading to executions, Iraq had already replied to the questions asked by the Special Rapporteur on summary or arbitrary executions appointed by the Commission on Human Rights, and, in particular, had denied the false and entirely unfounded allegations concerning the execution of children.

7. Article 79 of the Penal Code provided that capital punishment should be commuted to life imprisonment when the person sentenced was aged between 18 and 20 years, and there was ample evidence to prove that that provision was being implemented. Iraq categorically rejected accusations about summary trials leading to executions, since all Iraqi courts, including the Revolutionary Court before its dissolution, had always strictly adhered to the

Code of Criminal Procedure in dealing with all cases before them. With regard to the number of cases in which the death penalty had been pronounced, the question would be referred to the competent authorities.

8. A second group of questions had related to cases of involuntary disappearance; the figures mentioned by certain members of the Committee, which originated from the Working Group on Enforced or Involuntary Disappearances, were explained by the fact that the Iraqi Government had been unable to elucidate all the cases mentioned by the Group owing to the situation in the northern part of Iraq, where a tribe of over 2,300 persons, which had collaborated with the occupying Iranian forces during the war against Iran, had left Iraqi territory with the occupation forces when the region had been liberated. That was the reply given to the Working Group, and investigations were continuing into the other cases submitted to the Iraqi Government.

9. A third group of questions had related to Iraq's possession of weapons of mass destruction. Iraq had accepted Security Council resolution 687 (1991), which provided that the country should get rid of all weapons of that type; that was currently being done under United Nations surveillance. The country had also acceded to the Treaty on the Non-Proliferation of Nuclear Weapons; its nuclear facilities had in fact been built for civil purposes and had been placed under IAEA control from the outset. With regard to allegations that Iraq had used chemical weapons against civilians, the international media had recently published findings proving that that was not the case.

10. In a fourth set of observations, it had been denied that the aim of disbanding the Revolutionary Court had been to enhance respect for human rights (paras. 57 and 58 of the report). The fact that verdicts handed down in criminal cases could be appealed against before the Court of Cassation, the highest court in the land, meant that the equity and legality of sentences were assured (see para. 50 of the report). Therein lay the best safeguard of the right to life in cases of sentences to capital punishment.

11. Fifthly, with regard to disturbances and riots (paras. 24 and 41 of the report) and their consequences for civilians, the events had been referred to as ordinary demonstrations which could have been controlled by police measures backed if necessary by court action. In fact, there had been acts of destruction, executions, thefts and rapes perpetrated by large armed groups from abroad who had wanted to undermine Iraq's sovereignty and territorial integrity. The Iraqi State had thus been obliged to resort to means commensurate with the dangers to which those groups, equipped with sophisticated and dangerous weapons, had been subjecting the country. It was only natural, therefore, that in exchanges of fire between the armed forces and those armed groups there had been victims among the civilian population.

12. Sixthly, reference had been made to the execution of two persons accused of the crime of espionage. The event in question had involved the application of a penalty in conformity with the law in force and with the verdict reached. The persons concerned had in fact committed the crime of espionage against Iraq for the benefit of another country, and everyone was aware that in most countries the law provided for very severe sentences, usually the death penalty, in such cases.

13. Another point was perhaps still unclear: it had been said that Iraq had criticized international calls to uphold human rights as constituting interference in the internal affairs of States. That was not the position of his delegation, which fully agreed with the Committee that the commitment undertaken by countries to implement human rights was for the benefit of a country's citizens. What Iraq objected to was the appeal the Coalition had made overtly and publicly for political changes in Iraq, because that was at variance with international law, particularly with the principle, adopted by the United Nations General Assembly, of non-interference in the internal affairs of States.

14. With regard to the effects of the economic blockade imposed on Iraq, it had been said that Iraq had borne responsibility for the blockade and that there had been no question that the international community should bear the consequences. Iraq had mentioned the problem not in order to evade its responsibilities, but to shed light on the actual conditions currently faced by the Iraqi people as a direct consequence of the blockade, which remained in force although its causes had vanished. Now that Iraq had accepted the Security Council resolutions and the members of the Coalition had nevertheless wanted to maintain the blockade, Iraq felt that the international community should face its humanitarian responsibilities. The world had acted precipitately in imposing the blockade, but was proving reluctant to lift it, despite the sufferings of the Iraqi people, primarily children, the elderly and the sick, who were directly affected by the lack of food and medicines.

15. Since one member of the Committee had mentioned infant mortality, which allegedly had risen, he cited a UNICEF publication according to which Iraq had produced one of the miracles of modern times in that the infant mortality rate, particularly of unweaned infants, had dropped by 40 per cent and the decline was continuing at the rate of 10 per cent per annum. That rate was four times higher than that observed in the developing countries. The tragedy currently inflicted on children in Iraq could be judged in the light of those figures.

16. The CHAIRMAN drew attention to section II of the list of issues, which read:

"II. Treatment of prisoners and other detainees (article 7)

(a) What sanctions are provided for acts of torture or cruel, inhuman or degrading treatment and how often have they been applied during the reporting period?

(b) Are there any independent and impartial procedures under which complaints can be made and investigated about the ill-treatment of individuals by the police, by members of the security forces, or by prison officials? Please provide additional information concerning the role of the representative of the Department of Public Prosecution in investigating complaints of maltreatment or poor health conditions in detention centres (see paragraph 33 of the report)."

17. Mr. MAHMOOD (Iraq), replying to question (a), said that, in Iraq, torture was prohibited under article 22 of the Constitution and punishable pursuant to articles 332 and 333 of the Penal Code. In addition, article 127 of the Code of Criminal Procedure stipulated that confessions obtained under torture had no value before the courts (CCPR/C/64/Add.6, para. 30). During the period covered by the third periodic report, persons who had committed acts of torture had been sentenced on the basis of articles 332 and 333 of the Penal Code. The degree of punishment varied according to the gravity of the offence but, as a rule it amounted to 15 years' imprisonment. The victim or his rightful claimants could apply for moral or material compensation on the basis of article 310 of the Code of Criminal Procedure. The victim could lodge a criminal complaint for acts of torture and, once a criminal verdict had been brought in and sentence passed, he could seek redress in the civil courts. Two possible courses of action were thus available to him. A document giving details of such cases which had been heard in Iraqi courts had been sent to the Committee secretariat for the information of members.

18. With regard to the question raised in section II (b), he said that the courts empowered to hear such matters were those which received complaints relating to acts of torture and took the necessary measures within their competence against the perpetrators. The Public Prosecutor, or his Office, played a leading role since it was he who initiated proceedings when apprised of an act of torture and who took charge of the case until a court gave a ruling (Code of Criminal Procedure, art. 2, para. 1). In Iraq, the Public Prosecutor's Office did not take charge of an examination but acted only in a subsidiary role, when the offence was one which fell within the competence of an examining magistrate who was absent. The neutrality of the Public Prosecutor's Office was thus ensured with regard to the examination of cases relating to all offences, including those of torture, to which the Office attached the highest importance in the context of its activities to monitor legality. No special rules existed for examination relating to acts of torture; the procedure followed was the same as that for all other offences, whether committed by the police or by prison staff.

19. The paragraphs relating to articles 7, 9 and 10 of the Covenant illustrated the essential role of the Department of Public Prosecution in any arrest and detention procedure. Pursuant to directive No. 4 of 1988, the Department was required to supervise prison conditions in order to ascertain that they conformed to regulations. It not only concerned itself with conditions of hygiene, but also with the food rations served to detainees. The Department also checked that doctors attended detention centres on a regular basis and whenever required. It heard complaints by detainees, whom it met in private with no warders present. It passed on all its observations to police officials and also presented a report to the regional Public Prosecutor. The Department also checked that any recommendations it might have made had been properly carried out. Should it appear that a detainee had been subjected to ill-treatment or torture, it instituted criminal proceedings against those believed to be responsible.

20. Mr. FODOR said he would like to know the number of cases of torture involving military personnel and members of the security forces that had arisen during the entire period covered by the report. The reply he had received at the previous meeting about the right to life scarcely encouraged such questions, but the extent of the problem nevertheless aroused his concern.

21. Paragraph 31 of the report referred to "material and moral" compensation to which torture victims were entitled. It would be interesting to know what the applicable legal provisions were for obtaining compensation, and what was meant by "moral" compensation. While it was helpful to know the legislation, it was even more important to know exactly what the practice was. It seemed that the sole recourse procedure offered to torture victims was action before the civil courts. It would be useful to kno the exact procedure for obtaining compensation and whether the latter was a legal right once a criminal court had handed down a decision.

22. He was surprised to read, in paragraph 30 of the report, that the courts had "passed judgements punishing some officials convicted of practising torture", and wondered why, if he had correctly understood that statement, judgement had not been passed on all the officials found guilty.

23. Mr. SADI regretted that the court decisions mentioned in paragraph 30 of the report, appended to the report in Arabic, had not been translated into the other working languages. He asked whether the Iraqi delegation was in a position to summarize them briefly. He would also like to know whether the four court decisions had been cited by way of example or whether they had been the only sentences passed to punish acts of torture.

24. In all countries, rules and instructions were required in order to govern the actions of the security forces. The report contained no information on that subject, and it might be asked whether guidelines were issued in Iraq to promote the elimination of torture. The use of the media to combat that practice by means of information campaigns would likewise be beneficial.

25. Mr. PRADO VALLEJO said he would have liked the Iraqi delegation to provide information on the problems encountered in implementing the Covenant before the fatal date of 2 August 1990. It seemed to him that a number of events prior to that date ought to have been inquired into. Thus, there had been reports of the disappearance, in August 1988, of 353 Kurds. Had inquiries been instituted and measures taken to shed light on those cases?

26. With regard to the events since 2 August, quite obviously human rights violations had been committed in Kuwait and Iraq. The International Committee of the Red Cross, whose humanitarian mission was respected by all countries of the world, had not been given the customary authorization to enter the country in order to carry out observations. There was a need to know whether the Iraqi authorities had themselves taken measures to pursue the inquiries which the situation had called for and the Red Cross had been unable to undertake.

27. He also found disquieting the treatment inflicted on Kuwaiti citizens who, as they were entitled to do, had resorted to civil disobedience during the occupation of their country. Those citizens had been subjected to humiliating and unbelievably degrading punishment. Had the Iraqi authorities taken the steps incumbent on them in redress.

28. During that crisis period, it had been decided in Iraq to institute capital punishment for the unlawful hoarding of food, and several death sentences had been pronounced on that ground. Persons found guilty of that

offence by the specially constituted courts had had no recourse, the sentence being without appeal. It was difficult to reconcile that lack of legal safeguards with the provisions of the Covenant.

29. Clear abuses had been committed by the invasion forces in Kuwait and, there again, there was no indication whether inquiries had been initiated in order to identify the persons responsible for the violations and bring them to justice.

30. Lastly, he asked whether there were still any political detainees in Iraq.

31. Mrs. HIGGINS said she was anxious to know what had been done about the requests by various international organizations for access to the names of all individuals still held in custody. She would like to know whether the names of all persons currently detained, including those arrested on return to Iraq following amnesty measures, would be published, whether the organizations concerned would have access to court records, and whether it would be possible for detained persons to be interviewed and examined by doctors.

32. In 1987, during consideration of the second periodic report of Iraq (CCPR/C/37/Add.3), she had welcomed the fact that the Government had issued directives to the security services, but had expressed doubts about the recommendation to the effect that the conduct of officials was "to be based on respect for individual freedom ... so long as individual freedom did not conflict with the policies of the revolution". The answer she had received was that "the security forces were instructed to respect the dignity of the human person, in return for which individuals had the obligation to respect the principles of the revolution", and that there was "no contradiction between that ... and the provisions of the Covenant" (CCPR/C/SR.747, paras. 5 and 21). She would now like to know whether those instructions were still in effect; she found it hard to understand how physical integrity could be guaranteed only in return for support for a Government, particularly when the latter had not come to power through universal suffrage. And even in the case of a Government resulting from universal suffrage, the opposition of individuals to a Government should in no circumstances deprive them of the safeguards relating to security of person.

33. Mr. AGUILAR URBINA said he had always taken the view that the Human Rights Committee was at the service of States parties and hoped that a more open dialogue could genuinely be established with the Iraqi delegation.

34. That delegation had stated that the number of offences punishable by the death penalty had not changed. However, he was aware of at least three offences which had been added by decision of the Revolutionary Command Council: the offence of hoarding food for pecuniary gain, the offence of looting and the offence of giving shelter to Westerners. He would welcome clarification on that point.

35. Article 7 of the Covenant was the subject of only four paragraphs in an otherwise well-documented report. According to that document, four judgements had been handed down by the courts, sentencing persons responsible for acts of torture. However, reports emanating from trustworthy international

organizations describing acts of torture gave the impression that a great deal of serious ill-treatment had been meted out during the invasion of Kuwait by Iraq. Amnesty International had listed 38 methods of torture. Torture had also allegedly been regularly practised before 2 August 1990. So many consistent reports were bound to contain at least an element of truth. It was, moreover, surprising to note that in three of the four trials conducted concerning acts of torture, there had been only one defendant, which was difficult to understand when account was taken of the very high number of allegations about acts of that nature. He wondered whether all the complaints had really been looked into and, if so, what the findings had been.

36. In every country of the world, practice very frequently differed from legislation; although the existence of guidelines for the armed forces was to be welcomed, it was legitimate to ask whether those instructions were duly observed. Everyone was aware that, during the invasion of Kuwait, torture had frequently been practised, sometimes leading to the death of the victims.

37. Like Mr. Fodor, he was surprised to read, in paragraph 30 of the report, that "some officials" had been punished; he failed to see why all of them had not been punished. He would also welcome an explanation of the concept of "moral" compensation.

38. Lastly, it was stated in paragraph 42 relating to amnesty measures, that the perpetrators of rape were never pardoned. During the invasion of Kuwait, soldiers had systematically raped Asian women employees in Kuwaiti homes. It was important now, to be told how many Iraqi soldiers had been prosecuted for rape.

39. Mr. EL SHAFEI said he had questions about the specific measures taken in Iraq to prevent torture; in particular he wondered whether the State party implemented the Standard Minimum Rules for the Treatment of Prisoners. He would also like to know whether representatives of governmental and non-governmental organizations were authorized to visit detention centres and meet persons who there was reason to believe had been victims of brutality. And he would like to know whether there had been instances of victims dying as a result of torture.

40. Mr. HERNDL said that the right not to be subjected to torture and cruel, inhuman or degrading treatment or punishment was one of the individual's basic rights. Reliable sources indicated that torture had indeed been practised on a large scale following the invasion of Kuwait and during the events of February, March and April 1991. According to that information, prisoners had been a prime target. He therefore asked the Iraqi delegation for information on prison conditions. He would like to know whether steps had been taken to avoid abuses, and in particular whether the officials in charge of prison establishments were aware of the Standard Minimum Rules for the Treatment of Prisoners.

41. From a legal standpoint, the prohibition of torture embodied in the Constitution and Penal Code ought to provide sufficient grounds for bringing to trial any person guilty of that offence. According to the report, a victim of torture had the right to seek redress in law, which implied that the State did not take official action. He would like to know whether Iraqi legislation

contained any provision enabling official action to be taken by the State in cases of torture. Since there was often a wide gap between legislation and its actual implementation, the question also arose whether the provisions of the Constitution and Penal Code prohibiting torture were genuinely put into effect and whether the perpetrators of ill-treatment were brought to trial and duly punished.

42. In conclusion, he wondered, in view of the large-scale human rights violations committed by agents of the Iraqi State in Kuwait and Iraq, whether the Iraqi Government would be prepared to institute impartial inquiries, with the assistance of international experts and organizations, and to publish the findings. Such an initiative would surely be in the State party's own interest.

43. Mrs. CHANET said she had noted, from the third periodic report (CCPR/C/64/Add.6), that the Iraqi authorities had a thorough grasp of the Covenant's provisions. They could accordingly not fail to be aware that article 7 (prohibition of torture and cruel, inhuman or degrading treatment or punishment) allowed of no derogation pursuant to article 4 (2) of the Covenant. With regard to the question of torture, she had noted, from paragraph 32 of the report, that Iraq cooperated fully with the Special Rapporteur on torture and responded to his queries. Bearing that statement in mind, she had studied the report prepared by the Special Rapporteur on torture (E/CN.4/1991/17) dated 10 January 1991. It appeared from that report that several urgent appeals had been made to the Iraqi Government, that cases of torture had been reported to it and that a list of names of persons allegedly tortured had been submitted to it. On 1 November 1990 the Iraqi Government had informed the Special Rapporteur that there had been not a shred of truth in those allegations. Thus the Iraqi authorities dismissed en bloc the accusations made against them, without providing any explanation about the cases cited by the Special Rapporteur.

44. However, there had been numerous eye-witness reports of torture, particularly in Kuwait, after 2 August 1990. A report by the Kuwaiti Red Cross mentioned that in August 1990 the corpses of 60 persons who had been shot and whose bodies had borne marks of torture had been delivered to that organization's headquarters. She would like to know whether there had been an inquiry into that case.

45. In a more general sense, she associated herself with the questions raised by Mrs. Higgins and Mr. Aguilar Urbina about the instructions given to military personnel. She would like to know whether the latter were given precise guidelines on their conduct towards people in general and civilians in particular. Had precise guidelines been given by the Iraqi authorities during the period following 2 August 1990?

46. Mr. MYULLERSON said he regarded paragraph 30 of the report (CCPR/C/64/Add.6) as one of the positive elements he had referred to at a previous meeting. The fact that courts had punished some State officials convicted of practising torture was a good sign. That having been said, information broadcast by various media and number of reports by non-governmental organizations referred to torture practised during Iraq's invasion of Kuwait. Those details had not been presented lightly; their

suppliers had provided dates, lists of names and an inventory of the various methods of torture used. The Iraqi authorities, therefore, could not content themselves with simply denying that torture had been practised. They must provide concrete evidence that it had not taken place and could not take place. The non-governmental organizations were at times accused of bias, on the grounds that they condemned certain States more violently than others. While that might be true in some cases, no general assertion could be made in that regard. In Eastern Europe, for example, countries such as the Soviet Union not so long before, or Romania during the Ceaucescu era, had for years denied the allegations made by Amnesty International and other organizations. But in the late 1980s the facts had had to be faced; although not everything in the accusations levelled by non-governmental organizations might have been true, most of the information they had provided had been correct.

47. He would therefore be grateful to the Iraqi delegation if it would give precise and specific replies on the accusations levelled against Iraq. In plain language, after 2 August 1990, had torture been practised in Iraq and Kuwait?

48. Mr. MAHMOOD (Iraq) said that, in view of the numerous questions asked and the fact that many of them overlapped, he proposed to answer them at a later stage, when his delegation replied to members' questions on section III of the list of issues.

49. The CHAIRMAN accepted that proposal and invited the Iraqi delegation to respond to the questions raised in section III of the list of issues, which read:

"III. Liberty and security of the person (article 9)

(a) Are there any particular legal actions that can be taken in cases of detention, such as habeas corpus?

(b) How quickly after arrest is a person's family informed? How soon after arrest can a person contact his or her lawyer?

(c) What is the maximum legal period of detention in custody and of pre-trial detention?

(d) Please clarify the actual scope of decisions 103, 105, 109 and 121 of April 1991 and decision 126 of May 1991, and in particular, the nature of the acts punishable by law whose perpetrators were pardoned by successive amnesties. Please clarify the meaning of the term "indecent assault" used in paragraph 42 of the report.

(e) Please provide statistics concerning the number of persons who left Iraq subsequent to 5 April 1991 and the number that have returned since the enactment of the various amnesty decisions. (See paragraphs 13 to 15 of the report.)

(f) Have all Kuwaitis taken to Iraq as prisoners after 2 August 1990 now been released or accounted for?"

50. Mr. MAHMOOD (Iraq), replying to the question in paragraph (a), said that, in accordance with article 22 (b) of the Iraqi Constitution, no person could be arrested or detained otherwise than in conformity with the procedure set forth in law. Furthermore, article 92 of the Code of Criminal Procedure provided that no one could be arrested or detained except in conformity with an order issued by an examining magistrate or a competent court seized of the case. As could be seen, arrest and detention must be covered by a lawful warrant, failing which they constituted an offence of deprivation of liberty, punishable under article 421 of the Penal Code. And if such an offence had been committed by an official abusing his position and prerogatives, that was deemed to be an aggravating circumstance, in accordance with article 135 of the Penal Code. In such a case, the victim could lodge a complaint against the perpetrator of the offence. The Department of Public Prosecution was obliged to prosecute that person. As a rule, the Department concerned itself with giving effect to judges' decisions and measures relating to ordinary and petty offences, supervised inquiries and visited detention centres. In addition, the Code of Criminal Procedure provided that any person having knowledge of an offence could so inform the competent courts, following which the examining magistrate would take the necessary steps. In the case of wrongful arrest, the person arrested was brought before a magistrate, who was required to order his immediate release and institute proceedings against the person or persons who had committed the offence. All those provisions, therefore, could be viewed as implementing the principle of habeas corpus.

51. Replying to the questions in paragraph (b), he said that, in accordance with Iraqi legislation, a person arrested had the right to communicate with his or her family and lawyer from the moment of arrest. In all police stations that right was publicized on clearly worded notices placed in full view.

52. With regard to the question in paragraph (c), he explained that the maximum legal period of detention in custody was 24 hours, in conformity with article 123 of the Code of Criminal Procedure. Moreover, articles 109 and 110 of the same Code provided that, as a rule, an arrested person must be released on bail or on the surety of another person. The latter provided surety that the person arrested would comply with any summons by the authorities. The magistrate was also empowered to extend the period of custody by periods of 12 days.

53. In the case of offences punishable by a sentence in excess of three years' imprisonment, the person arrested could likewise be released on bail. If the offence was punishable by a sentence equal to or less than three years' imprisonment, it was the rule to grant release, whether on bail or not, except when there were reasons to believe that the person concerned might abscond or that his release would prejudice the investigation.

54. In the case of a petty offence, arrest was illegal, unless the person apprehended had no known place of residence.

55. The only offences for which the legislation did not permit release on bail were those punishable by the death penalty.

report published on 15 July 1991 by the United Nations High Commissioner for Refugees, according to which 80 per cent of the persons who had left Iraq had returned, and the Iraqi authorities continued to cooperate with international bodies with a view to the return of all citizens to the country. Only 4,000 persons had not yet been repatriated at the current time.

62. His delegation believed that it had already replied to the question asked in section III (f).

63. Mrs. CHANET asked whether provisions existed in Iraq to govern "security" internment, in other words, administrative detention, which in itself did not contravene the provisions of article 9 of the Covenant, as the Committee had stressed in its General Comments. Administrative detention could in fact be imposed if it was neither arbitrary nor illegal, if the person concerned was informed of the reasons for the detention and if a court could rule on the detention's lawfulness. She would, therefore, like to know whether that measure was provided for in Iraqi legislation and, if so, whether it was implemented in conformity with the procedures set forth in article 9 of the Covenant.

64. She would also like to know for what reasons the Ayatollah Sayyid Abul Qasim Al-Khoie, who was 95 years of age, had been placed under house arrest, and on what legal grounds the members of his family and some of the people who shared his views had been held in detention.

65. Mr. SADI referred to the reports of Amnesty International, an organization known throughout the world for the accuracy and truth of the information it disseminated on the human rights situation in all countries. The members of the Committee possessed ample information from Amnesty about the acts of torture perpetrated on a wide scale in Iraq and Kuwait and the ill-treatment inflicted on detainees in both countries. The Iraqi delegation could hardly refute en bloc the allegations of an organization which had such an international audience, and it would be as well if it replied in writing, even briefly and not necessarily at once, to the serious accusations thus levelled against the Iraqi authorities.

66. Mr. PRADO VALLEJO said that, as he understood it, the Iraqi authorities had associated the Kurds with the rioters who had reportedly committed offences punishable under Iraqi legislation and that, as a result, tens of thousands of persons fleeing Iraq to seek refuge on the Iranian and Turkish frontiers had been savagely bombed by aircraft and helicopters. In his view, such acts were monstrous, as was the merciless bombardment of the homes of certain opponents of the Iraqi regime.

67. In adopting a whole range of amnesty measures, the Iraqi Government had admittedly demonstrated a political inclination towards reconciliation, but it remained to be seen whether all legal and moral safeguards had been established for the genuine implementation of those decisions. In that regard, one of the safeguards the Iraqi Government might give would be to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the Optional Protocol to the Covenant. He also understood that the amnesty decisions had given rise to internal conflicts,

which would appear to mean that certain movements were opposed to the central Government; he would accordingly welcome details of the types of offence for which those responsible had been amnestied. In particular, he asked whether amnesty had been granted to members of the armed forces, police or government services who had perpetrated human rights violations.

68. Mr. WENNERGREN associated himself with the questions raised by Mrs. Chanet; he too would like to know whether administrative detention existed in Iraq and, if so, what legislative provisions governed that measure. He asked whether the police authorities had the power to impose administrative detention, whether regular checks were carried out during the detention period and whether the persons subjected to that measure had certain rights of recourse.

69. Mr. HERNDL, referring to the information given in paragraph 36 of the report, said he would like to know more precisely who had responsibility for judicial control in matters of arrest. Was it, for example, a court, a tribunal or an independent magistrate?

70. With regard to the amnesty decisions which were the subject of paragraph 42 of the report, he shared Mr. Prado Vallejo's desire to know whether measures had been taken to grant amnesty to certain government members or bodies that had perpetrated human rights violations. He would also like to know the length of time that the amnesty decisions, particularly decision No. 126 of 8 May 1991, had been in force since it seemed to him that the methods of implementation had in practice considerably reduced the opportunities afforded to Iraqi citizens to benefit from the amnesty decision. And lastly, he would like to know whether theft was in all cases deemed an ordinary offence for which the perpetrator could not be granted amnesty, since there seemed to be some confusion on that point in the report.

71. Mr. AGUILAR URBINA agreed with Mr. Sadi that the Iraqi Government could not dismiss en bloc the serious accusations levelled against it by Amnesty International, other non-governmental organizations and several press organs. And like Mrs. Chanet, he wished to know on what legal grounds representatives of the Shiite religion and members of their families had been arrested and imprisoned and, since arbitrary deprivation of freedom was an offence punishable under the Iraqi Penal Code, how many officials making illegal arrests had been sentenced. With regard to detention of opponents of the regime, he would also like to know whether the rights of dissidents were protected in the same way as the right to freedom of expression, opinion or religion.

72. He was greatly surprised at the impressive number of persons who had been amnestied between 1986 and 1991, and found it hard to understand how so many persons could have been sentenced, apparently for offences of a political nature. And he would welcome clarification on the retroactive nature of the implementation of the amnesty decisions since, as Mr. Herndl had observed, it seemed that those decisions remained in force for only an extremely short period.

73. With regard to directive No. 4 of 1988, referred to in paragraphs 36 and 37 of the report, he would like to know for what reason the role of the Department of Public Prosecution needed strengthening, to the detriment of the accused's defence, and why that Department should be empowered to monitor the decisions handed down by a judge. Lastly, referring to paragraph 41 of the report, he noted that the authorities had arrested a number of individuals for acts of destruction and sedition, and wondered whether, in that regard, the Iraqi judicial authorities had acted in accordance with the principles set forth in article 14 of the Covenant.

74. Mrs. HIGGINS, referring to section III (c) of the list of issues, noted that the reply given by the Iraqi delegation had been the same as that provided during consideration of Iraq's second periodic report; she would nevertheless like to know whether the Government had in fact taken account of the view expressed by the Committee, to the effect that the presumption of innocence was the essential principle applicable in any judicial procedure.

75. With regard to paragraph (e), various figures had been put forward, but for her part she understood that 750,000 Kurds were still refugees in Iran and Turkey, that 250,000 Shiites were still refugees in Iran and that over 750,000 Iraqis had left the country since 1980. That pointed to an alarming situation, since it was clearly unnatural for citizens to decide to flee their homeland without compelling reason.

76. Persons who had been imprisoned and had not benefited from all the safeguards set forth in article 9 of the Covenant should, in her view, be released as quickly as possible. And the Committee could not accept the reply given to the question asked in paragraph (f). The situation was in fact perfectly clear, and the Committee was duly empowered, pursuant to the Covenant itself, to ascertain that all the safeguards set forth in the Covenant had been provided to persons on Iraqi territory.

The meeting rose at 1.05 p.m.